

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EUGENE KLIEWER,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. C24-5678 BHS

ORDER

This matter is before the Court on Magistrate Judge Brian A. Tsuchida's Report and Recommendation (R&R), Dkt. 8, recommending that the Court deny pro se Petitioner Eugene Kliever's application to proceed *in forma pauperis*, Dkt. 1, and dismiss this action with prejudice because:

- (1) Petitioner is confined pursuant to state criminal convictions and challenges to these convictions must be brought under 28 U.S.C. § 2254[, not § 2241];
- (2) Section 2254 habeas relief is unavailable because Petitioner filed his petition beyond the one year statute of limitations;
- (3) Petitioner's guilty pleas to the crimes for which he was convicted preclude habeas relief; and
- ([4]) Petitioner's claim [that] his Fourth Amendment rights were violated due to an unlawful arrest is not grounds for § 2254 relief.

Dkt. 8 at 2.

1 The R&R also recommends denying a certificate of appealability. Dkt. 8 at 2.

2 Kliewer has not objected to the R&R. He instead filed three “motions” that
3 provide a citation to an apparently irrelevant case, request the Court to “enter an ORDER
4 commanding the respondent to produce the entire record,” and request the Court “to
5 ORDER the respondent to answer the petition.” Dkts. 9, 10, 11. None of these motions
6 provide objections to the R&R.

7 A district court “shall make a de novo determination of those portions of the report
8 or specified proposed finding or recommendations *to which objection is made.*” 28
9 U.S.C. § 636(b)(1)(C) (emphasis added); *accord* Fed. R. Civ. P. 72(b)(3). “The statute
10 makes it clear that the district judge must review the magistrate judge’s findings and
11 recommendations de novo *if objection is made*, but not otherwise.” *United States v.*
12 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). A proper objection requires
13 “specific written objections to the proposed findings and recommendations” in the R&R.
14 Fed. R. Civ. P. 72(b)(2).

15 The R&R, Dkt. 8, is **ADOPTED**, Kliewer’s application to proceed *in forma*
16 *pauperis*, Dkt. 1, is **DENIED**, Kliewer’s motions, Dkts. 9, 10, 11, are **DENIED**, and this
17 case is **DISMISSED with prejudice**. The Court **DECLINES** to issue a certificate of
18 appealability because Kliewer has not made a substantial showing of the denial of a
19 constitutional right. *See* 28 U.S.C. § 2253(c)(2).

20 The Clerk shall enter **JUDGMENT** and close this case.

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Dated this 10th day of September, 2024.

A handwritten signature in black ink, appearing to read "Benjamin H. Settle", written over a horizontal line.

BENJAMIN H. SETTLE
United States District Judge